



# **STATE MINING AND GEOLOGY BOARD**

## **EXECUTIVE OFFICER'S REPORT**



ARNOLD  
SCHWARZENEGGER  
GOVERNOR

For Meeting Date: January 14, 2010

**Agenda Item No. 2: Approval of an Interim Management Plan and Financial Assurance Cost Estimate for the Wheatland Clay Pit (CA Mine ID #91-58-0007), Gladding McBean Company (Operator), Mr. Richard Hutchens (Agent), Yuba County.**

**INTRODUCTION:** The State Mining and Geology Board (SMGB) acts as the lead agency for Yuba County, pursuant to the Surface Mining and Reclamation Act of 1975 (SMARA). Interim Management Plans (IMPs) are approved by the SMARA lead agency for a period of time not to exceed five years, and may be, upon termination of the original IMP and at the discretion of the lead agency, renewed by the lead agency for another period not to exceed five years.

In addition, SMARA requires that each surface mining operation maintain a financial assurance in an amount adequate to reclaim, in accordance with the requirements of an approved reclamation plan, the land disturbed by the mining operation at the conclusion of mining activities. SMARA lead agencies are required to annually review the financial assurance amounts for each surface mining operation, and adjust the amount, as necessary, to account for new land disturbed, inflation, or land reclaimed. In any event, the lead agency must ensure that the approved amount is adequate to reclaim the mine site in accordance with the approved reclamation plan (PRC Sections 2770 and 2773.1, and California Code of Regulations (CCR) Section 3804).

**REGULATORY AUTHORITY:** Within 90 days of becoming idle, a surface mine operator shall submit an IMP to the SMARA lead agency. An idle mine is defined pursuant to PRC Section 2727.1 as:

*“to curtail for a period of one year or more surface mining operations by more than 90 percent of the operation’s previous maximum annual mineral production, with the intent to resume those surface mining operations at a future date.”*

IMPs are required pursuant to PRC Section 2770(h)(1) which states:

*“Within 90 days of a surface mining operation becoming idle, as defined in Section 2727.1, the operator shall submit to the lead agency for review and approval, an interim management plan...The interim management plan shall provide measures the operator will implement to maintain the site in compliance with this chapter, including, but not limited to, all permit conditions.”*



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Renewal of IMPs by SMARA lead agencies are addressed in PRC Section 2770(h)(2) which states:

*“The interim management plan may remain in effect for a period not to exceed five years, at which time the lead agency shall do one of the following:*

- (A) Renew the interim management plan for another period not to exceed five years, if the lead agency finds that the surface mining operator has complied fully with the interim management plan,*
- (B) Require the surface mining operator to commence reclamation in accordance with its approved reclamation plan.”*

Financial assurance cost estimate (FACE) adjustment requirements are discussed under SMARA, and within the SMGB's regulations and guidelines. Lead agencies are required to assure that financial assurances for reclamation are sufficient pursuant to Division 2, Chapter 9, Article 5 of PRC Section 2770(d) which states:

*“The lead agency's review of reclamation plans submitted pursuant to subdivision (b) or of financial assurances pursuant to subdivision (c) is limited to whether the plan or the financial assurances substantially meet the applicable requirements of Sections 2772, 2773, and 2773.1, and the lead agency surface mining ordinance adopted pursuant to subdivision (a) of Section 2774, but, in any event, the lead agency shall require that financial assurances for reclamation be sufficient to perform reclamation of lands remaining disturbed. Reclamation plans or financial assurances determined to substantially meet these requirements shall be approved by the lead agency for purposes of this chapter. Reclamation plans or financial assurances determined not to substantially meet these requirements shall be returned to the operator within 60 days. Reclamation plans or financial assurances determined not to substantially meet these requirements shall be returned to the operator within 60 days. The operator has 60 days to revise the plan or financial assurances to address identified deficiencies, at which time the revised plan or financial assurances shall be returned to the lead agency for review and approval.”*

In addition, PRC Section 2773.1(a) states:

*“...Lead agencies shall require financial assurances of each surface mining operation to ensure reclamation is performed in accordance with the surface mining operation's approved reclamation plan, as follows:*

*(3) The amount of financial assurances required of a surface mining operation for any one year shall be adjusted annually to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved reclamation plan.”*

Furthermore, the SMGB’s regulations, pursuant to Article 11 of the CCR Section 3804, Calculation of Financial Assurance Amount, states:

*“(a) The Financial Assurance Amount shall be calculated as prescribed in Public Resources Code Section 2773.1 and based on:*

- (1) an analysis of the physical activities and materials necessary to implement the approved reclamation plan;*
- (2) the lead agency's unit costs, or costs for third party contracting, for each of these activities, if applicable;*
- (3) the number of units of each of these activities, if applicable;*
- (4) a contingency amount not to exceed 10% of the reclamation costs.*

*(b) The calculated amount should not include the cost of completing mining of the site.*

*(c) In order for the lead agency or the Department of Conservation to determine what annual adjustments, if any, are appropriate to the Financial Assurance Amount, the operator shall annually submit to the lead agency a revision of the written calculation required under Section 3804(a).”*

**BACKGROUND:** The Wheatland Clay Pit is situated about one mile north of the city of Wheatland to the east of Highway 65. Extraction activities ceased on the site on July 30, 2003, although the operator continues to utilize stockpiled clay material from the pit at their production plant in Lincoln. Encompassing about 114 acres, the topography is relatively flat with an overall relief on the order of five to seven feet. The sinuous Grasshopper Slough is located immediately south and west of the site, and agricultural land borders the site on all sides.

The material extracted is a former bench deposit of silty clay (Wyman Silt Loam) ranging up to nine feet in depth and characterized by good plasticity and moderately high dry and fired strength. One remaining un-mined area on the subject site that is underlain by this silty clay deposit is located in the southeast corner of the property. Sandy silty loam that is left in place underlies the Wyman Silt Loam. The clayey soils previously extracted have been

transported to the operator's facility in Lincoln, California where it is utilized for various clay products.

An inspection of the Wheatland Clay Pit surface mining operation was performed on August 27, 2009. No violations or corrective measures were noted at time of inspection, and no acreage was deemed disturbed.

On August 10, 2009 the SMGB received a proposed IMP from the operator for the Wheatland Clay Pit. After a preliminary review, SMGB staff asked for further information and clarification from the operator, and requested re-submittal of the IMP. On September 15, 2009 the operator provided a revised IMP, which included a revised FACE. Such documents were subsequently reviewed by SMGB and OMR staff.

The financial assurance cost estimate has been adjusted to reflect current site conditions, current equipment, labor and fuel rates, and anticipated disturbance over the next calendar year. The financial assurance currently on file is in the amount of \$5,2260.00. A revised FACE for the site was approved by the SMGB on December 11, 2008 in the amount of \$1,072.50. The site remains subject to a financial assurance, and based on our recent analysis and review of site conditions and submitted documents, SMGB staff considers the revised FACE in the amount of \$2,990.00 to be adequate to conduct and complete reclamation of the mined lands in accordance with the approved reclamation plan.

The following table summarizes the adjusted financial assurance cost estimate:

**FINANCIAL ASSURANCE COST ESTIMATE (FACE) ADJUSTMENT:**

I.	Primary Reclamation Activities	\$	0.00
II.	Revegetation	\$	0.00
III.	Plant Structures and Equipment Removal	\$	0.00
IV.	Miscellaneous Costs	\$	0.00
V.	Monitoring	\$	2,000.00
<b>Total Direct Cost</b>		<b>\$</b>	<b>2,000.00</b>
VI.	Supervision/Overhead/Contingencies		
a.	Supervision (10%)	\$	200.00
b.	Profit/Overhead (10%)	\$	200.00
c.	Contingencies (10%)	\$	200.00
d.	Mobilization (N/A)	\$	0.00
<b>Total Indirect Cost</b>		<b>\$</b>	<b>600.00</b>
<b>Total Direct and Indirect Costs</b>		<b>\$</b>	<b>2,600.00</b>
Lead Agency administrative cost (15%)		\$	390.00
<b>Total Estimated Cost for Reclamation</b>		<b>\$</b>	<b>2,990.00</b>

**EXECUTIVE OFFICER'S ANALYSIS:** Material production at the site has been curtailed by more than 90 percent of the operation's previous maximum annual mineral production. In addition, the operator has indicated intent to resume surface mining operations at a future date. The operator has submitted an IMP to its lead agency, the SMGB, for review and approval. The operator utilized the SMGB's IMP form. The IMP provides measures the operator will implement to maintain the site in compliance with SMARA, including, but not limited to, all permit conditions. In addition, the revised FACE that was submitted with the proposed IMP is deemed adequate to conduct and complete reclamation of the mined lands in accordance with the approved reclamation plan. The Office of Mine Reclamation and SMGB staff have reviewed the IMP and considered it adequate in meeting the minimum requirements of SMARA and the SMGB's regulations.

**EXECUTIVE OFFICER'S RECOMMENDATION:** The Executive Officer recommends that the SMGB approve the IMP for a period of up to five years, at which time the SMGB can consider an extension, if so desired, by the surface mine operator. Approval of the IMP for a period of five years, would not preclude the SMGB from performing inspection

at least once each calendar year. Additionally, the Executive Officer recommends that the SMGB approve the recently revised FACE.

**SUGGESTED MOTION LANGUAGE:**

To approve the Interim Management Plan:

*Mr. Chairman, in light of the information before the State Mining and Geology Board today, I move that the Board approve the Interim Management Plan for the Wheatland Clay Pit, CA Mine ID #91-58-0007, and adopt Resolution 2010-01, for a period not to exceed five years.*

**and,**

To approve the Adjusted Financial Assurance Cost Estimate:

*Mr. Chairman, in light of the information before the State Mining and Geology Board today, I move that the Board approve the adjusted financial assurance cost estimate of \$2,990.00 for the Wheatland Clay Pit, CA Mine ID #91-58-0007, located in Yuba County, as being adequate to reclaim the site in accordance with the approved reclamation plan, and meeting the minimum requirements of SMARA and the Board's regulations.*

Respectfully submitted:

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Stephen M. Testa  
Executive Officer